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United States Attorney  
Southern District of New York**MEMO ENDORSED**USDC SDNY  
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CHAMBERS OF  
COLLEEN MCMAHON  
U.S. DISTRICT COURT84 Chambers Street, 3<sup>rd</sup> Floor  
New York, New York 10007

SEP 16 2005

September 12, 2005

9/15/05

**BY FEDERAL EXPRESS**

The Honorable Colleen McMahon  
United States District Judge  
United States Courthouse  
300 Quarropas Street, Room 533  
White Plains, New York 10601-4150

Re: United States v. Bruce Useo, et al.,  
No. 05 Civ. 5399 (CM)

*Place Useo in  
response  
calendar  
bankruptcy*

Dear Judge McMahon:

I am the Assistant United States Attorney assigned to represent the United States in the above-referenced foreclosure action. I write to advise the Court that this Office has been notified by bankruptcy counsel that defendants Bruce and Maureen Useo have filed a voluntary petition for Chapter 13 bankruptcy in United States Bankruptcy Court. The petition was filed on September 1, 2005, and is currently pending before United States Bankruptcy Judge Cecelia Morris in Poughkeepsie, New York, In re Maureen T. Useo and Bruce Useo, 05-37489 (CGM). I therefore respectfully request that the Court stay discovery pending further developments in the newly-filed bankruptcy, notwithstanding the discovery deadlines established by the Court's order, dated August 5, 2005 (copy enclosed).

As this district court action seeks foreclosure with regard to property of the debtors' estate, it is our understanding that defendants' filing of a voluntary petition pursuant to Section 301 of the Bankruptcy Code, 11 U.S.C. § 301, operates as a stay on further proceedings in this case, unless the stay is lifted by the bankruptcy court. See 11 U.S.C. § 362. Accordingly, pursuant to Section 362, the United States will stay any discovery efforts in the current action. However, the United States reserves any and all claims in this action, and claims or defenses with regard to the pending bankruptcy action, including the right to seek dismissal of the voluntary petition, if appropriate, on the grounds that the petition was filed in bad faith.

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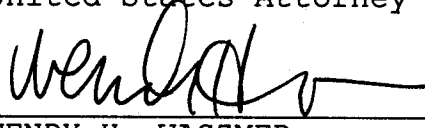
USDC SDNY

Thank you for your consideration of this matter.

Respectfully submitted,

MICHAEL J. GARCIA  
United States Attorney

By:

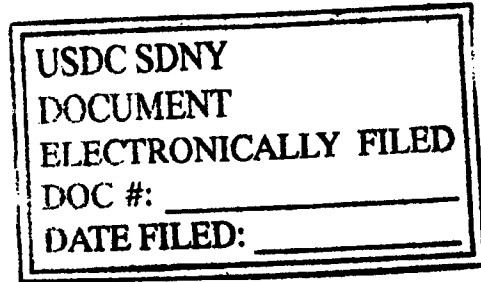
  
\_\_\_\_\_  
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cc: BRUCE AND MAUREEN USEO, pro se (by Federal Express)  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



United States of America,

Plaintiff(s),

05 Civ. 5399 (CM)(GAY)

-against-

Bruce Useo, et al.,

Defendant(s).

CIVIL CASE MANAGEMENT PLAN

1. This case is/is not to be tried to a jury.
2. Discovery pursuant to Fed.R.Civ.P. 26(a) shall be exchanged by \_\_\_\_\_, which is 30 days after service on the last defendant to be served.
3. No additional parties may be joined after \_\_\_\_\_.
4. No pleading may be amended after \_\_\_\_\_.
5. All discovery, *including expert discovery*, must be completed on or before 11/30/05. (For personal injury, civil rights, employment discrimination or medical malpractice cases only): Plaintiff's deposition shall be taken first, and shall be completed by \_\_\_\_\_. PLEASE NOTE: the phrase "all discovery, including expert discovery" means that the parties must select and disclose their experts' identities and opinions, as required by Fed. R. Civ. P. 26(a)(2)(B), *well before* the expiration of the discovery period. Expert disclosures conforming with Rule 26 must be made no later than \_\_\_\_\_.
6. A joint pre-trial order in the form prescribed in Judge McMahon's individual rules, together with all other pre-trial submissions required by those rules (not including in limine motions), shall be submitted on or before 12/9/05. Following submission of the joint pre-trial order, counsel will be notified of the date of the final pre-trial conference. In limine motions must be filed within five days of receiving notice of the final pre-trial conference; responses to in limine motions are due five days after the motions are made. Cases may be called for trial at any time following the final pre-trial conference.
7. No motion for summary judgment may be served after the date the pre-trial order is

due. *The filing of a motion for summary judgment does not relieve the parties of the obligation to file the pre-trial order and other pre-trial submissions on the assigned date.*

8. This case has been designated to the Hon. United States Magistrate Yan Hui White Plains for discovery disputes, which will be resolved under the White Plains Magistrates' standing order for Resolution of Discovery Disputes, and for trial under 28 U.S.C. Section 636(c) if counsel execute their consent in writing. Discovery disputes do not result in any extension of the discovery deadline or trial-ready date.

9. This scheduling order may be altered or amended only on a showing of good cause not foreseeable at the time this order is entered. *Counsel should not assume that extensions will be granted as a matter of routine.*

Dated: 8/5/05  
White Plains, New York 10601

SO ORDERED

  
\_\_\_\_\_  
Hon. Colleen McMahon  
United States District Judge